Supreme Court, U.S.
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No. 96-1383

In The

Supreme Court of the United States

October Term, 1996

WILLIAM R. POUNDERS, Judge of the Superior Court of the State of California for the County of Los Angeles,

Petitioner,

vs.

PENELOPE WATSON,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

REPLY TO RESPONDENT'S BRIEF IN OPPOSITON

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RESPONDENT'S CONTENTION THAT SHE WAS NOT AWARE OF THE ORDERS SHE VIOLATED WAS REJECTED BY ALL CALIFORNIA COURTS AND BY THE U.S. DISTRICT COURT, AND IS IRRELEVANT TO THE NINTH CIRCUIT OPINION AND TO THE REASONS FOR GRANTING REVIEW.

Respondent in her reply to the petition contends that the petition is misleading because it does not discuss in detail respondent's claim that she was unaware of the trial court's order that she violated. Respondent's contention was not only rejected by the trial judge and not found to be a basis for review in any California appellate court, but was also rejected by the United States District Court Judge who stated:

> "The record makes it quite clear that multiple statements made in open court gave Petitioner adequate warning to put a person of reasonable intelligence on notice as to what conduct Judge Pounders had prohibited, satisfying due process notice requirements." (Sept. 8, 1994, District Court Order denying petition for habeas corpus, App. 15).

Most importantly, the reasons for granting review are in no way affected by respondent's rejected claim that she was unaware of the court's order despite its repeated restatement in open court and despite the court's repeated warnings. The Ninth Circuit decision for which review is sought never reached this contention of petitioner, and its decision is not in any way dependent upon that contention. (Ninth Circuit opinion, App. 11.)

Review should be granted because, contrary to long-standing California authority, the Ninth Circuit in this case has held that even the willful disobedience of an order not

to ask certain prejudicial questions after warnings not to do so cannot be summarily punished by contempt unless a reviewing court independently concludes that the attorney would continue to disobey the order unless she were immediately punished. California authority, including *In re Hallinan*, 71 Cal.2d 1179, 1183-1185, 81 Cal.Rptr. 1 (1969), relied upon by respondent in her opposition to the petition for certiorari, has consistently held that if warnings have been given that the attorney's conduct is disruptive to the proceedings, a trial court may thereafter summarily hold the attorney in contempt for willful violation of the order and warnings to cease the conduct, because "disobedience of court orders tends to lessen the effect of those orders." *Gallagher v. Municipal Court*, 31 Cal.2d 784, 797, 192 P.2d 905, 914 (1948).

Without authority to impose immediate sanction when an attorney persists in violating a court's orders during a jury trial despite repeated warnings not to do so, trial courts will lack effective tools to ensure the orderly conduct of proceedings before them.

CONCLUSION

A writ of certiorari should issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted,

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